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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,357	11/21/2001	Peter Everett Brooks	6954.01	3338

25763 7590 02/12/2003

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INTELLECTUAL PROPERTY DEPARTMENT  
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MINNEAPOLIS, MN 55402-1498

EXAMINER

NICOLAS, FREDERICK C

ART UNIT PAPER NUMBER

3754

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/991,357	BROOKS, PETER EVERETT	
	Examiner	Art Unit	
	Frederick C. Nicolas	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 10, 18 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-15, 19-21, 25-35, 37-39 and 41-43 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 17, 22, 23, 36 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Species C, Figures 3-5, Claims 1-9, 11-17, 19-23, and 25-43 in Paper No. 5 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2,4 are rejected under 35 U.S.C. 102(b) as being anticipated by Walsh (U.S 5,405,050).

Walsh discloses a liquid dispensing device (10), which comprises a pin element (26) moveably oriented to move between a retracted position and an extended position (column 4, lines 46-49), a drive element (38) operatively coupled with the pin element wherein the drive element is operating the pin element (column 5, lines 54-68 onto column 6, lines 1-18), a nozzle (22, 12) defines a chamber (14), a dispensation orifice (34) communicates with the chamber as best seen in Figure 1, a liquid dispensing opening (16).

4. Claims 1-4,11-15,19-21,25-31,35,37-39,41-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Jager et al. (U.S 3,164,304).

Jager et al. discloses a liquid dispensing device as best seen in Figure 1, which comprises a pin element (20) moveably oriented to move between a retracted position

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and an extended position (column 2, lines 37-42), a drive element (32) operatively coupled with the pin element wherein the drive element is operating the pin element (column 2, lines 18-30), a driven element (36) in contact with the transfer pin, an encasement/nozzle defining a chamber (18) chamber and an orifice communicating with the chamber (column 2, lines 6-17), the extended position describes a portion of the pin element extending out of the chamber through the orifice as best seen in Figure 1, a liquid receiving opening (see Figure 1 for location, note: the liquid receiving opening is the opening within bearing (24)), the transfer pin motion is hydraulically restrained by the liquid in the chamber as best seen in Figure 1, and it is inherent that the transfer pin motion of Jager et al. is hydraulically restrained by the liquid in the chamber in as much as the applicant's claimed invention.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh (U.S 5,405,050) in view of Miller et al. (U.S 5,758,650).

Walsh has all the features of the claimed invention except for the magnet is a rare earth magnet. Miller et al. teaches the use of a rare earth magnet (400), where the rare earth magnet is Smco (column 6, lines 30-39).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Walsh's magnet with the magnet of Miller et al. in order to provide a different type of magnets that are magnetically much stronger for a given size than ferrous magnets and they have a higher resistance to demagnetization.

7. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jager et al. (U.S 3,164,304) in view of Miller et al. (U.S 5,758,650).

Walsh has all the features of the claimed invention except for the magnet is a rare earth magnet. Miller et al. teaches the use of a rare earth magnet (400), where the rare earth magnet is Smco (column 6, lines 30-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the magnet of Jager et al. with the magnet of Miller et al. in order to provide a different type of magnets that are magnetically much stronger for a given size than ferrous magnets and they have a higher resistance to demagnetization.

#### ***Allowable Subject Matter***

8. Claims 8-9,16-17,22-23,36 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mutschler et al. (U.S 3,329,964), Farnworth et al. (U.S 5,495,667), Mutschler (U.S 3,334,354), Heard et al. (U.S 5,039,061), Vann et al. (U.S

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6,467,700), Kidder et al. (U.S 4,646,676), Schlumberger (U.S 5,356,034), Newbold et al. (U.S 6,250,515), Goldschein (U.S 3,366,288), Vilagi et al. (U.S 4,360,132), Price (U.S 4,711,379), White et al. (U.S 6,371,339), Standlick et al. (U.S 4,852,773), Bryning et al. (U.S 6,296,702) and Overbeck et al. (U.S 6,269,846) disclose other types of liquid dispensation device.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (703)-305-6385. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mancene L Gene or acting supervisor Ehud Gartenberg, can be reached at (703) 308-2696. can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is (703)-308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0861.

FN  
February 5, 2003

(f.r.) 2/6/03

  
**EHUD GARTENBERG**  
**PRIMARY EXAMINER**